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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAFILED
FEB 1 2008

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UNITED STATES OF AMERICA,) Magistrate Docket No. *108 MJ 1880*
 Plaintiff,)
 v.) COMPLAINT FOR VIOLATION OF:
 Rogelio TOVAR-Hernandez,) Title 8, U.S.C., Section 1326
) Deported Alien Found in the
) United States
 Defendant)
)

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **June 17, 2008** within the Southern District of California, defendant, **Rogelio TOVAR-Hernandez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 18th DAY OF JUNE 2008


 Nita L. Stormes
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Rogelio TOVAR-Hernandez

PROBABLE CAUSE STATEMENT

On June 17, 2008, at approximately 5:00 A.M., a Remote Video Surveillance System operator advised Border Patrol Agents via service radio of several individuals running south in an area commonly known as "La Media." This area is approximately 4.5 miles east of the San Ysidro, California, Port of Entry.

Border Patrol Agent L. S. Dithrich, responded to the area and after a brief search observed 15 individuals running west. Agent Ditrich followed and caught up with the individuals just east of an area known as "Britannia." Due to the close proximity to the United States / Mexico International Boundary Fence, which is approximately 50 yards south, Agent Ditrich identified himself as a Border Patrol Agent and conducted an immigration inspection. All fifteen individuals, including one later identified as the **defendant Rogelio TOVAR-Hernandez**, admitted to being a citizen and national of Mexico illegally in the United States without any immigration documents that would allow him to legally enter or remain in the United States. All fifteen were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on February 21, 2008 through Hidalgo, Texas**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.